REMARKS

The present Request for Reconsideration is submitted in response to the Final Office Action dated January 14, 2004, which set a three-month period for response, making this request due by April 14, 2004, and with the initial two-month period for response March 14, 2004.

Claims 15-31 are pending in this application.

In the final Office Action, claims 15-17, 20, 21, and 31 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,265,270 to Stengel et al in view of U.S. Patent No. 5,339,455 to Vogt. Claims 18, 19, 26, and 27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Stengel in view of Vogt et al and further in view of U.S. Patent No. 5,369,803 to Hirasawa et al. Claim 22 was rejected under 35 U.S.C. 103(a) as being unpatentable over Stengel et al in view of Vogt et al and further in view of U.S. Patent No. 5,831,256 to De Larminat et al. Claim 23 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Stengel et al in view of Vogt et al and further in view of U.S. Patent No. 4,430,609 to Van Kessel et al. Claims 24, 25, and 28-30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Stengel et al in view of Vogt et al and further in view of an examiner's official notice.

The Applicants respectfully disagree that the cited reference combinations make obvious the present invention as defined in claims 15-31.

The primary reference to Stengel et al fails to show the specific parameter to be changed in case of error free signal reception. Stengel et al also fail to show the specific manner of doing this. Rather, Stengel et al propose a solution, according to which a better receiving mode is initiated immediately after detection of a good signal quality for a certain period of time. So, according to Stengel et al, the better receiving mode is held even if the signal quality gets worse during this period of time. After the predetermined period of time, the receiving mode is changed irrespective of the signal quality (see Stengel et al, column 6, lines 41 to 52).

The reference to Vogt et al, cited in combination with Stengel in support of the rejection of independent claim 15, shows a radio receiver which checks the signal level of the received signal. Depending on the signal level, filter means are switched. Vogt et al show a radio apparatus in which at least one parameter of the receiver part is switched when a signal level exceeds a certain value.

Therefore, Vogt et al also do not disclose the solution of checking the signal quality for a certain predetermined time and lowering a parameter of the receiver part when the signal quality is good for this predetermined time.

Consequently, a combination of the teachings of Stengel et al and Vogt et al will lead a practitioner of ordinary skill in the art to a solution according to which filter means are switched immediately after detection of a good signal quality for a certain period of time.

The combination of Stengel et al and Vogt et al provides no suggestion to the practitioner of lowering the parameter of the receiver part after a

predetermined time period, when the signal quality was good for that predetermined time period, as defined in claim 15 of the present application. Therefore, according to the present invention, a better receiving mode is initiated after a predetermined time period, when the signal quality remains good for this period of time. This avoids a premature change into the better receiving mode and improves the performance of the radio apparatus.

Therefore, the rejection of claim 15 under Section 103 cannot be maintained. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under Section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. ***ACS Hosp. Sys., Inc., v. Montefiore Hosp.***, 221 USPQ 929, 932, 933 (Fed. Cir. 1984). The prior art of record fails to provide any such incentive or suggestion.

The Examiner argues in the final Office Action that the predetermined time period corresponds to the latency of the microprocessor shown by Vogt et al. The Applicants disagree. The latency of a microprocessor is an imminent feature of the microprocessor and depends during operation on several parameters, for example, the charge of the microprocessor. Therefore, the latency cannot be predetermined. Again, the rejection of claim 15 under Section 103 over the cited combination of references is not proper. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the

modification obvious unless the prior art suggested the desirability of the modification. ***In re Fritch***, 23 USPQ 1780, 1783-84 (Fed. Cir. 1992).

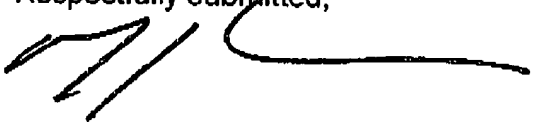
Furthermore, it is the aim of the microprocessor industry to shorten the latency of the microprocessor and other circuit elements, respectively. In other words, the latency time is short. Further, the only effect of the latency is that the change in the parameter is retarded by the latency time, but the decision itself to change is not influenced. Detecting the error-free reception for the first time, the change of the parameter is conducted after the latency of the microprocessor, whereas, in the present invention, the error-free situation has to be ensured for a predetermined time period before the parameter is changed.

For the reasons set forth above, the Applicants respectfully submit that claims 15-31 are patentable over the cited reference combinations. The Applicants further request withdrawal of the final rejections under 35 U.S.C. 103 and reconsideration of the application as herein amended.

In light of the foregoing arguments in support of patentability, the Applicants respectfully submit that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



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